

NORTH HERTFORDSHIRE DISTRICT COUNCIL

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20 September 2019

Sarah McLaughlin
Head of Growth & Infrastructure Unit
Hertfordshire County Council

Contact Officer: Nigel Smith
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By email only

Dear Sarah,

Re: Hertfordshire County Council (HCC) Planning Obligations Toolkit

Thank-you for providing the opportunity to comment on the proposed update to your planning obligations toolkit. This guidance is welcomed and supported in principle.

Officers were informally consulted upon the emerging toolkit earlier this year. Although some changes have been made to the documents in the meantime, our substantive concerns remain. Our earlier comments are appended to this letter and we ask again that they be taken into consideration as appropriate. In doing so, we recognise that the anticipated adoption of our Local Plan has since slipped and that there have been some revisions to the proposed charges in the latest iteration of the toolkit.

We are also considering a joint response with the other Hertfordshire local planning authorities which identifies a number of detailed, technical concerns. This will be provided separately if and when agreed.

In addition to and building upon the above, we make a small number of further comments.

Paragraph 2.2.1, which recognises that infrastructure requirements should be properly tested through the local plan process is welcomed. We similarly support the statements at paragraph 1.2.2 that the responsibility of attributing weight to the toolkit and the requests for contributions arising from it rests with the local planning authorities.

We anticipate that the County Council will approach negotiations to individual applications in a way which reflects these words. This should include a genuine willingness to compromise and agree solutions where this will facilitate sustainable growth. We aim to produce a draft of our Developer Contributions SPD by the end of the year. This will provide further guidance on the District Council's proposed approach.

Our recently published Housing Delivery Test Action Plan recognises that the process of completing legal agreements is a key constraint to determining planning applications and delivering homes. We trust that the County Council has or will put in place appropriate resources to ensure that contributions arising from the toolkit can be efficiently identified, negotiated and agreed and then translated into completed legal agreements.

As previously, we remain committed to an effective working relationship between our authorities that delivers genuinely sustainable development in the District. We welcome the opportunity for an ongoing dialogue on this matter.

Yours sincerely,

Cllr Paul Clark
Deputy Leader & Executive Member for Planning and Transport
North Hertfordshire District Council

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3 April 2019

Sarah McLaughlin
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Hertfordshire County Council

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By email only

Dear Sarah,

Re: Hertfordshire County Council (HCC) Planning Obligations Toolkit

Thank-you for providing the opportunity to informally comment on the proposed toolkit documents at this early stage in their development. We will provide any detailed comments on their content at the formal consultation stage. At this point, we would like to raise our significant concerns as officers over the County Council's overall approach to this matter.

We are particularly concerned by the scale of the proposed charges in the toolkit. We have examined an indicative scheme of 100 homes. This suggests the new toolkit will result in requested contributions more than quadrupling compared to the original 2008 toolkit. This appears to be borne out in recent HCC responses to current planning applications. The proposed revised charges are also significantly in excess of the rates examined through the viability study for our emerging Local Plan.

Our own Local Plan policies must be produced within the framework established by relevant legislation and guidance. They are subject to extensive scrutiny through the examination process before being adopted. Once adopted, and whilst they remain up-to-date, our Development Management team should approve applications that accord with the plan without delay (as set out in the National Planning Policy Framework (NPPF), paragraph 11).

The NPPF further requires that plans should set out the contributions expected from development (paragraph 34) while planning applications that comply with up-to-date policies should be assumed to be viable (paragraph 56).

This advice is reinforced by the technical Planning Practice Guidance (PPG), which is clear that documents other than the Plan should not be used to set rates or charges which have not been established through development plan policy.

Our new plan for the period to 2031 is being examined. Specific hearing sessions have been held on housing, infrastructure and viability matters. At the point of writing, there has been no HCC objection to our proposed affordable housing targets or the assumptions underpinning our viability evidence. Similarly, there has been no request by HCC for any alternate schedule or scale of (potential) charges on new development to be examined.

Given the above context, we cannot support the imposition of the proposed new charges as *de facto* planning policy by HCC outside of this ongoing process; either as a general matter

of principle or, in particular, where they have the potential to adversely impact upon proposals and concepts which have been fairly and transparently examined and upon which applicants have a reasonable expectation that we will base our s106 requests.

District Councils are subject to various Government performance measures. These relate to the determination of planning applications as well as measures of housing delivery. We are required to identify measures to speed-up housing delivery and will be adversely judged if these are not effective. Potential sanctions include being placed in special measures, or having to apply a more liberal approach to the determination of planning applications.

The negotiation of s106 legal agreements involving HCC (and other parties) is already a significant cause of delay in the system. We are taking steps to address this in consultation with your officers and we anticipate that a number of relevant measures will be reflected in our forthcoming Housing Delivery Test Action Plan.

We consider that, if implemented, the new charging schedule will have a significant adverse impact upon our efforts to speed housing delivery. We anticipate a substantial increase in site-specific viability appraisals and developer challenges to s106 requests if the toolkit has not been subject to appropriate viability testing or independent, public scrutiny. These delays will be compounded if HCC adopts an intractable negotiating position seeking toolkit requirements in full and / or insists upon affording weight or status to the toolkit that does not reflect the factors outlined above.

We hope to progress our new Plan to adoption during 2019. In accordance with the statutory framework for determining planning applications and Government guidance, we will have to give precedence to properly tested requirements in future negotiations.

Our viability study indicates there may be 'headroom' to realise developer contributions over and above the baseline assumptions referred to above, particularly on greenfield sites. However, we will not compromise the provision of affordable housing, or undermine the properly tested principles upon which the Council has proposed removing land from the Green Belt, where untested HCC requests for contributions adversely impact upon the viability or deliverability of schemes.

Your toolkit and responses to individual planning applications will remain a material consideration in their determination and afforded appropriate weight but we can give no guarantee that this Council will insist upon your demands being met in full. In this context we welcome, from the recent PAS workshops, the recognition of the importance of affordable housing and the potential to utilise alternate funding sources to deliver infrastructure.

We remain committed to an effective working relationship between our authorities that delivers genuinely sustainable development in the District. We welcome the opportunity for an ongoing dialogue on this matter. In particular we wish to better understand the additional or alternate sources of infrastructure funding that are available to HCC to fill any future shortfalls, and to determine how we may assist you in accessing these.

Yours sincerely,

Nigel Smith
Strategic Planning Manager

Simon Ellis
Development & Conservation Manager